

591—6.12(424) Immediate successor liability for unpaid charge. A depositor selling the depositor's business or stock of petroleum or ceasing to do business is obligated to prepare a final return and pay all charges due within the succeeding month. Any immediate successor to the depositor who purchases the business or stock of petroleum is obligated to withhold a sufficient amount of the purchase price to pay the charge, interest and penalty which the depositor owes. Any immediate successor who intentionally fails to withhold enough of the purchase price to pay the delinquent charge, interest and penalty is personally liable for payment of the charge, interest and penalty. However, if the immediate successor's purchase of the depositor's business or stock of petroleum was made in the good faith belief that the depositor owed no charge, interest or penalty, then the department may waive the liability of the immediate successor. See rule 701—12.14(422,423) for further information regarding a depositor's immediate successor liability, except that the provisions of 701—subrule 12.14(4) regarding "good faith" are not applicable to this rule.

For the purposes of this rule, an immediate successor's belief that the immediate predecessor-depositor owed no charge, interest or penalty is made in good faith if the immediate successor has exercised that caution and diligence which honest persons of ordinary prudence exercise in handling their business affairs with regard to the purchase, and includes an honesty of intention and freedom from knowledge of circumstances which ought to put one on inquiry as to the facts. In order to establish that this belief is held in good faith, a depositor must exercise reasonable prudence to determine whether tax, penalty or interest is owed, and if any facts exist which would lead a reasonable person to make further inquiry regarding this matter, then the immediate successor must conduct an inquiry concerning whether tax, penalty or interest is owed.

This rule is intended to implement Iowa Code sections 424.6 and 424.8.